

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

EMILIO GARCIA CONTRERAS,

Petitioner,

vs.

Respondent.

**8:23CV104**

**MEMORANDUM AND ORDER**

On April 6, 2023, the Court advised Petitioner Emilio Garcia Contreras that it would construe the document at [Filing No. 1](#) as a petition for writ of habeas corpus under [28 U.S.C. § 2254](#) if he did not voluntarily withdraw his petition within 30 days and directed Petitioner to file an amended petition for writ of habeas corpus if he decided to allow this action to proceed as one brought pursuant to [28 U.S.C. § 2254](#) and to pay the filing fee or submit a motion to proceed in forma pauperis (“IFP”). [Filing No. 3](#). Furthermore, the Court advised Petitioner that if he failed to respond to the Court’s April 6, 2023 Memorandum and Order or file an amended petition within 30 days and pay the filing fee or submit a request to proceed IFP, then this matter would be dismissed without prejudice and without further notice. To date, Petitioner has not paid the filing fee, submitted a motion to proceed in forma pauperis, filed an amended petition, or taken any other action in this matter, and the time in which to do so has passed.

IT IS THEREFORE ORDERED that: This case is dismissed without prejudice because Petitioner failed to prosecute it and failed to comply with this Court’s orders. No certificate of appealability has been or will be issued. The Court will enter judgment by a separate document.

Dated this 1st day of June, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "JF Bataillon". The signature is stylized with a large, circular initial "J" and a long, horizontal flourish extending to the right.

Joseph F. Bataillon  
Senior United States District Judge